

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LLEWELLYN "ANGELO" WILLIAMS,

Plaintiff,

-against-

THE VILLAGE OF PORT CHESTER, THE VILLAGE
OF PORT CHESTER POLICE DEPARTMENT,
POLICE OFFICER MUNNELLY, DETECTIVE
SUPPA, POLICE OFFICER CHALMERS, POLICE
OFFICER ACOCELLA, POLICE OFFICER ALCIVAR,
POLICE OFFICER RUBIN, POLICE OFFICER KOLC,
and OFFICER JOHN DOE NO. 1,

Defendants.
-----X

ANSWER

Docket No.
08 Civ. 5209 (KMK)

Defendants THE VILLAGE OF PORT CHESTER, THE VILLAGE OF PORT
CHESTER POLICE DEPARTMENT, POLICE OFFICER MUNNELLY, DETECTIVE
SUPPA, POLICE OFFICER CHALMERS, POLICE OFFICER ACOCELLA, POLICE
OFFICER ALCIVAR, POLICE OFFICER RUBIN, POLICE OFFICER KOLC, by their
attorneys, MIRANDA SOKOLOFF SAMBURSKY SLONE VERVENIOTIS, LLP, as and
for their answer to the complaint in the above-captioned action, set forth as follows:

1. Deny the allegations contained in ¶ "1" of the complaint, and refer all
questions of law to the Court for adjudication.
2. Deny the allegations contained in ¶ "2" of the complaint, and refer all
questions of law to the Court for adjudication.
3. Deny the allegations contained in ¶ "3" of the complaint, and refer all
questions of law to the Court for adjudication.

4. Deny the allegations contained in ¶ “4” of the complaint, and refer all questions of law to the Court for adjudication.

5. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “5” of the complaint.

6. Admit the allegations contained in ¶ “6” of the complaint.

7. Deny the allegations contained in ¶ “7” of the complaint, and refer all questions of law to the Court for adjudication.

8. Admit the allegations contained in ¶ “8” of the complaint.

9. Admit the allegations contained in ¶ “9” of the complaint.

10. Admit the allegations contained in ¶ “10” of the complaint.

11. Admit the allegations contained in ¶ “11” of the complaint.

12. Admit the allegations contained in ¶ “12” of the complaint.

13. Admit the allegations contained in ¶ “13” of the complaint.

14. Deny the allegations contained in ¶ “14” of the complaint.

15. Deny the allegations contained in ¶ “15” of the complaint, and refer all questions of law to the Court for adjudication.

16. Deny the allegations contained in ¶ “16” of the complaint.

17. Deny the allegations contained in ¶ “17” of the complaint.

18. Deny the allegations contained in ¶ “18” of the complaint.

19. Admit the allegations contained in ¶ “19” of the complaint.

20. Admit the allegations contained in ¶ “20” of the complaint.

21. Deny the allegations contained in ¶ “21” of the complaint, and refer all questions of law to the Court for adjudication.

FIRST CAUSE OF ACTION

22. As and for a response to the allegations contained in ¶ “22” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “21” of the complaint, as though they were fully set forth herein.

23. Deny the allegations contained in ¶ “23” of the complaint.

24. Deny the allegations contained in ¶ “24” of the complaint.

25. Deny the allegations contained in ¶ “25” of the complaint, and refer all questions of law to the Court for adjudication.

26. Deny the allegations contained in ¶ “26” of the complaint, and refer all questions of law to the Court for adjudication.

27. Deny the allegations contained in ¶ “27” of the complaint, and refer all questions of law to the Court for adjudication.

28. Deny the allegations contained in ¶ “28” of the complaint, and refer all questions of law to the Court for adjudication.

29. Deny the allegations contained in ¶ “29” of the complaint.

30. Deny the allegations contained in ¶ “30” of the complaint.

31. Deny the allegations contained in ¶ “31” of the complaint.

32. Deny the allegations contained in ¶ “32” of the complaint.

SECOND CAUSE OF ACTION

33. As and for a response to the allegations contained in ¶ “33” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “32” of the complaint, as though they were fully set forth herein.

34. Deny the allegations contained in ¶ “34” of the complaint.

35. Deny the allegations contained in ¶ “35” of the complaint, and refer all questions of law to the Court for adjudication.

36. Deny the allegations contained in ¶ “36” of the complaint, and refer all questions of law to the Court for adjudication.

THIRD CAUSE OF ACTION

37. As and for a response to the allegations contained in ¶ “37” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “36” of the complaint, as though they were fully set forth herein.

38. Deny the allegations contained in ¶ “38” of the complaint.

39. Deny the allegations contained in ¶ “39” of the complaint.”

40. Deny the allegations contained in ¶ “40” of the complaint.

FOURTH CAUSE OF ACTION

41. As and for a response to the allegations contained in ¶ “41” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “40” of the complaint, as though they were fully set forth herein.

42. Deny the allegations contained in ¶ “42” of the complaint.

43. Deny the allegations contained in ¶ “43” of the complaint, and refer all questions of law to the Court for adjudication.

44. Deny the allegations contained in ¶ “44” of the complaint.

FIFTH CAUSE OF ACTION

45. As and for a response to the allegations contained in ¶ “45” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “44” of the complaint, as though they were fully set forth herein.

46. Deny the allegations contained in ¶ “46” of the complaint.

47. Deny the allegations contained in ¶ “47” of the complaint, and refer all questions of law to the Court for adjudication.

48. Deny the allegations contained in ¶ “48” of the complaint.

SIXTH CAUSE OF ACTION

49. As and for a response to the allegations contained in ¶ “49” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “48” of the complaint, as though they were fully set forth herein.

50. Deny the allegations contained in ¶ “50” of the complaint.

51. Deny the allegations contained in ¶ “51” of the complaint.

52. Deny the allegations contained in ¶ “52” of the complaint.

53. Deny the allegations contained in ¶ “53” of the complaint.

54. Deny the allegations contained in ¶ “54” of the complaint.

55. Deny the allegations contained in ¶ “55” of the complaint.

56. Deny the allegations contained in ¶ “56” of the complaint.

SEVENTH CAUSE OF ACTION

57. As and for a response to the allegations contained in ¶ “57” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “56” of the complaint, as though they were fully set forth herein.

58. Deny the allegations contained in ¶ “58” of the complaint.

59. Deny the allegations contained in ¶ “59” of the complaint.

60. Deny the allegations contained in ¶ “60” of the complaint.

61. Deny the allegations contained in ¶ “61” of the complaint.

62. Deny the allegations contained in ¶ “62” of the complaint, and refer all questions of law to the Court for adjudication.

EIGHTH CAUSE OF ACTION

63. As and for a response to the allegations contained in ¶ “63” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “62” of the complaint, as though they were fully set forth herein.

- 64. Deny the allegations contained in ¶ “64” of the complaint.
- 65. Deny the allegations contained in ¶ “65” of the complaint.
- 66. Deny the allegations contained in ¶ “66” of the complaint.
- 67. Deny the allegations contained in ¶ “67” of the complaint.
- 68. Deny the allegations contained in ¶ “68” of the complaint.
- 69. Deny the allegations contained in ¶ “69” of the complaint.
- 70. Deny the allegations contained in ¶ “70” of the complaint.
- 71. Deny the allegations contained in ¶ “71” of the complaint.
- 72. Deny the allegations contained in ¶ “72” of the complaint.
- 73. Deny the allegations contained in ¶ “73” of the complaint.
- 74. Deny the allegations contained in ¶ “74” of the complaint.
- 75. Deny the allegations contained in ¶ “75” of the complaint.
- 76. Deny the allegations contained in ¶ “76” of the complaint.
- 77. Deny the allegations contained in ¶ “77” of the complaint.
- 78. Deny the allegations contained in ¶ “78” of the complaint.
- 79. Deny the allegations contained in ¶ “79” of the complaint.
- 80. Deny the allegations contained in ¶ “80” of the complaint.

81. Deny the allegations contained in ¶ “81” of the complaint.

82. Deny the allegations contained in ¶ “82” of the complaint.

83. Deny the allegations contained in ¶ “83” of the complaint.

84. Deny the allegations contained in ¶ “84” of the complaint.

85. Deny the allegations contained in ¶ “85” of the complaint, and refer all questions of law to the Court for adjudication.

86. Deny the allegations contained in ¶ “86” of the complaint, and refer all questions of law to the Court for adjudication.

87. Deny the allegations contained in ¶ “87” of the complaint, and refer all questions of law to the Court for adjudication.

88. Deny the allegations contained in ¶ “88” of the complaint, and refer all questions of law to the Court for adjudication.

89. Deny the allegations contained in ¶ “89” of the complaint.

90. Deny the allegations contained in ¶ “90” of the complaint.

91. Deny the allegations contained in ¶ “91” of the complaint, and refer all questions of law to the Court for adjudication.

92. Deny the allegations contained in ¶ “92” of the complaint, and refer all questions of law to the Court for adjudication.

93. Deny the allegations contained in ¶ “93” of the complaint, and refer all questions of law to the Court for adjudication.

94. Deny the allegations contained in ¶ “94” of the complaint.

FIRST AFFIRMATIVE DEFENSE

95. Plaintiff’s complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

96. The individual defendants are protected by qualified immunity.

THIRD AFFIRMATIVE DEFENSE

97. To the extent that plaintiff sues based upon a claim that any defendant testified falsely in a criminal matter, such defendant is entitled to absolute immunity.

FOURTH AFFIRMATIVE DEFENSE

98. To the extent that plaintiff sues for intentional interference with contractual relations, any contract that plaintiff claims to have had was void and/or voidable as illegal and/or as against public policy.

FIFTH AFFIRMATIVE DEFENSE

99. Plaintiff had no enforceable property right that was denied by defendants.

SIXTH AFFIRMATIVE DEFENSE

100. Plaintiff's complaint is barred, in whole or in part, by res judicata and collateral estoppel.

SEVENTH AFFIRMATIVE DEFENSE

101. Plaintiff has failed to properly serve some or all of the defendants.

EIGHTH AFFIRMATIVE DEFENSE

102. Plaintiff's complaint is barred, in whole or in part, by the statute of limitations.

NINTH AFFIRMATIVE DEFENSE

103. Plaintiff's complaint is barred, in whole or in part, by plaintiff's failure to file a notice of claim with respect to some or all of the claims in this lawsuit.

TENTH AFFIRMATIVE DEFENSE

104. Defendants had reasonable cause to believe that plaintiff had committed the crime for which plaintiff was arrested and charged.

ELEVENTH AFFIRMATIVE DEFENSE

105. Plaintiff has failed to mitigate his damages.

TWELFTH AFFIRMATIVE DEFENSE

106. Plaintiff's arrest and detention by defendants was lawful, privileged, and authorized by New York State CPL. § 140.10.

THIRTEENTH AFFIRMATIVE DEFENSE

107. If defendants used any physical force alleged in the complaint, this force was justified, reasonable, and necessary under the circumstances to prevent plaintiff from inflicting physical injury upon defendants and/or to protect others from the assaultive, dangerous, an physical force threatened to be used by plaintiff and/or actually used by plaintiff.

FOURTEENTH AFFIRMATIVE DEFENSE

108. The injuries, losses, damages and occurrences alleged in plaintiff's complaint were the result of an independent and intervening cause or causes over which the answering defendants had no control or right to control and in no way participated.

FIFTEENTH AFFIRMATIVE DEFENSE

109. If plaintiff has been injured and damaged as alleged in the complaint, such injury and damage were caused and contributed to by acts of third-parties, over which this answering defendant had no control.

SIXTEENTH AFFIRMATIVE DEFENSE

110. If plaintiff has been injured and damaged as alleged in the complaint, such injury and damage were caused and contributed to by plaintiff's own conduct, negligence, carelessness, or want of care; and, if it be determined that plaintiff is entitled to recovery herein as against answering defendantS, such recovery should be apportioned between plaintiff and answering defendant according to its relative responsibility therefor.

SEVENTEENTH AFFIRMATIVE DEFENSE

111. If plaintiff has been damaged or injured as alleged in the complaint herein, and such damage or injury was not sustained solely as a result of plaintiff's own negligence, carelessness, culpable conduct, or want of care, such damage and injury were brought about by the negligence, carelessness, culpable conduct, want of care, and intentional acts of third parties over whom the answering defendant had no control and for whose negligence, carelessness, want of care, and intentional criminal acts the answering defendant is not responsible.

EIGHTEENTH AFFIRMATIVE DEFENSE

112. Upon information and belief, any past or future costs or expenses incurred, or to be incurred, by plaintiff for medical care, dental care, custodial care, or rehabilitative services, loss of earnings, or other economic loss has been, or will with reasonable certainty be, replaced or indemnified, in whole or in part, from a collateral source, as defined in CPLR 4545(c), and, consequently, if any damages are recoverable against the answering defendants, the amount of such damages shall be diminished by the amount that plaintiff has received, or shall receive, from the collateral source.

NINETEENTH AFFIRMATIVE DEFENSE

113. If any liability is found as against answering defendant(s), this liability will constitute fifty percent (50%) or less of all liability assigned to all parties liable, and, as such, the liability of answering defendant(s) to plaintiff for non-economic loss shall be limited, and shall not exceed answering defendant's (s') equitable share, as provided in C.P.L.R. Article 16.

TWENTIETH AFFIRMATIVE DEFENSE

114. Plaintiff assumed all risk of injury by engaging in assaultive behavior in an effort to resist lawful arrest.

Dated: Mineola, New York
July 26, 2008

MIRANDA SOKOLOFF SAMBURSKY
SLONE VERVENIOTIS, LLP
Attorneys for Defendants LEESTHER
BROWN, SANDRA BOND, and LORRAINE
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By: 

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